UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCE

In Re Application of:	Thomas S. Abbott		
Serial No.:	09/663,661	Examiner:	Sager, Mark A.
Filing Date:	15 September 2000	Art Unit:	3712
Invention:	REEL GAME REQUIRING SKILL TO WIN		

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
Post Office Box 1450
Alexandria, VA 22313-1450

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Applicant respectfully traverses the Examiner's Statement of Allowable Subject Matter that claims the Applicant does not distinguish over Nolte but for the display of two full or plurality of full symbols. The Examiner mistakenly equates the "display window" as the same as the "window of opportunity" defined in the Applicant's application beginning in the first full paragraph on page 27 and extending through line 20 on page 28. As has been argued before, in Nolte no symbol displayed within the display window can be stopped in a winning position by pressing the stop button. Nolte constrains the stop button to operate with a predetermined built-in delay long enough for any symbol displayed in the display window to rotate through and out of the display window. This means that Nolte is not a game of reflexes and ultimately not a skill game. This is in contrast to the Applicant's invention where the stop button acts effectively instantaneously so that a player may use the stop button to instantaneously stop in a desired symbol in the "window of opportunity." The language referenced by the Examiner in the Statement of Allowable Subject Matter on page 28 of the Applicant's application is misunderstood. Here, the Applicant is referring to the fact that people have different degrees of reflexes and the perception/reaction time necessarily involves some delay. This is what is referred to as the "lead" on line 15 of page 28 of the Applicant's application.

Moreover, the Applicant notes that throughout this prosecution the various examiners who have had this case have never fully understood either the Nolte reference nor how the Applicant's invention distinguishes itself from the the Nolte reference. The Applicant has repeatedly argued the patentable difference. The Applicant feels that both the application and claims as initially filed should have been allowed. The Applicant has made clarifying changes to the Applicant's claim language but the Applicant does not feel that at any point any of the changes made to the Applicant's claims were substantive changes to the scope of the claims to overcome prior art. Essentially, the same prior art has been used by the examiners throughout this application. All changes in the Applicant's claims made manifest limitations which were actually inherent in the original claim language. Applicant is happy to have claims allowed but that if the examiners had fully penetrated and understood the Nolte admittedly obscure language regarding the timing of the Nolte stop buttons, then the Applicant's invention and claims would have been allowed as initially written. Applicant notes the Nolte application was apparently written in a deliberately obscure fashion. The Nolte invention portrays itself as a game of skill but in fact the skill level required is beyond ordinary human abilities and Nolte is in fact a game of chance. It was portrayed as a game of skill to conform to certain regulatory environments. The Applicant believes the Nolte application was written in part to fool regulatory bodies to allow the Nolte invention to be approved for use where games of skill are allowed but not games of chance. Consequently, it is not surprising that the Patent Office examiners would have difficulty penetrating this deliberately obscure, if not misleading, language. However, it is nevertheless the Applicant's position that had the examiners penetrated and understood the Nolte patent language, the Applicant's invention and claims would have been allowed as initially written.

Respectfully submitted,

This the 2 day of JAN, 2006.

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